

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:09-CR-234-BO-1

No. 5:11-CV-155-BO

TERRENCE DOUGLAS PENNINGTON)
)
v.)
)
UNITED STATES)
_____)

ORDER

This matter is before the Court on *pro se* Plaintiff's Motion to Vacate under 28 U.S.C. § 2255. (DE # 35¹, 39).

FACTS

On January 21, 2010, petitioner pled guilty, pursuant to a written plea agreement (DE # 22), to possession with the intent to distribute a quantity of marijuana and possession of a firearm in furtherance of a drug trafficking crime. On April 27, 2010, this Court sentenced petitioner to 97 months of incarceration, as well as other penalties. (DE # 33). Petitioner did not appeal his conviction or sentence.

On April 4, 2011, Petitioner filed a motion seeking collateral review of his conviction pursuant to 28 U.S.C. § 2255. In his petition, petitioner claims, *inter alia*, that his counsel failed to file an appeal in spite of his request.

In its Response, the Government requests that the Court re-enter a new judgment identical in all respects to the earlier one except for the date of entry so that Petitioner could


¹ The Motion at (DE # 39) is the same as (DE # 35) except it was written on the proper motion form at the direction of the Court.

timely appeal his sentence. United States v. Mongold, 259 Fed. Appx. 539, 540-41 (4th Cir. 2007).

CONCLUSION

The Court ORDERS the clerk to re-enter a new judgment for Petitioner identical in all respects to Petitioner's earlier one except that the date of entry should be today's date.

SO ORDERED, this 26 day of June, 2011.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE